



Montana Department of
ENVIRONMENTAL QUALITY

"Healthy environment, healthy people"

Steve Bullock, Governor
Tracy Stone-Manning, Director

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April 25, 2013

Howard Cantor, Administrator
EPA Region 8 – Mail Code 8P-AR
1595 Wynkoop Street
Denver, CO 80202

Dear Mr. Cantor:

I understand the Air Resources Management Bureau of the Department of Environmental Quality is providing assistance to EPA with its continuing task of clearing the backlog of state submittals to the State Implementation Plan (SIP) for which EPA had not taken administrative action. I also understand WildEarth Guardians sued EPA and secured a consent decree ordering EPA to take action on several backlogged items, including Montana's demonstration of equivalency regarding New Source Review (NSR). Following is some background regarding this specific submittal.

On March 29, 2006, Montana submitted to EPA the Montana New Source Review Program Equivalency Demonstration (Montana Demonstration). The Montana Demonstration was the product of a substantive review of Montana's rules for the permitting of major sources and major modifications pursuant to NSR. EPA required "SIP-approved" states to either adopt revisions consistent with NSR rule revisions (67 FR 80186) or to submit to EPA a statement that existing NSR rules are at least as stringent as the federal rules. As set forth in the Montana Demonstration, Montana determined its rules were at least as stringent as the federal rules.

Some of the federal rules pertaining to NSR have been successfully challenged and subsequently and variously vacated and remanded. No person has petitioned for review of Montana's NSR rules; therefore, Montana's NSR rules, as in 2006, remain as stringent as the federal rules. As a result, Montana has implemented its regulatory program permitting major sources and major modifications without regulatory interruption.

However, EPA has not yet acted on the Montana Demonstration. The Montana Demonstration is the subject of a consent decree negotiated between WildEarth Guardians and EPA following WildEarth Guardians' litigation against EPA based on allegations of failure to act on SIP matters, including the Montana Demonstration, in a timely manner¹. EPA very recently contacted Montana and stated its preferences regarding action on Montana's NSR rules and the Montana Demonstration. Pursuant with EPA's preferences, Montana hereby withdraws its March 26, 2006, submittal.

¹ See Consent Decree arising from Civil Action No. 09-cv-02148-REB-MJW and any subsequent modifications to and replacements of the Consent Decree. Montana is not a party to this litigation.

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Montana will work diligently on the demonstration and resubmit this to EPA in the near future. We look forward to working with EPA to obtain timely approval of this demonstration.

If you require anything further, please contact Eric Merchant at (406) 444-1457.

Sincerely,



Tracy Stone-Manning
Director